

## **Radiation Advisory Board**

### **Minutes**

Friday, June 1, 2001

The Radiation Advisory Board met on Friday, June 1, 2001 in Third Floor Conference Room of the Main Street Station located at 1500 East Main Street at 9:00 a.m. The meeting agenda was as follows:

#### **I. Call to Order - 9:00 a.m.**

Khizar Wasti, Ph.D., Chairman, representing E. Anne Peterson, M.D., M.P.H., State Health Commissioner

Members present: Lee S. Anthony, Ph.D.; Edway Johnson; Herman Moore, Jr.; Panos Fatouros, Ph.D., Mary Ann Turner, M.D., and Clark Russ, M.D.

Members absent: Ted Sherwin, D.D.S.; Lewis Springer, D.V.M.; and Dennis Stanley, M.D.

Ex Officio Members present: John Beers, Department of Agriculture and Consumer Services, representing J. Carlton Coulter, III; Brett Burdick, Department of Emergency Management, representing Michael Kline; Harry Gregori, Jr., Department of Environmental Quality representing Dennis Treacy, and Clarence Wheeling representing Jeff Brown, Department of Labor and Industry.

Ex Officio Members absent: Tom Grose, Virginia Institute of Marine Science.

#### **II. Overview of Agenda**

Khizar Wasti, Ph.D.

Minutes of January 5, 2001 meeting were approved.

#### **III. Presentations**

Overview of motions passed from previous advisory board meeting and status of regulations- Khizar Wasti, Ph.D.

The Advisory Board passed a motion to send a letter to the State Health Commissioner expressing the Advisory Board's desire that the State becoming an NRC Agreement State should be a priority. A previous letter had been forwarded from the Commissioner through the Secretary's Office to the Office of the Governor; however, there was no comment from the Governor's Office regarding the issue.

The Advisory Board had passed a motion to place a priority to revise the regulations, which will be discussed later.

The Advisory Board had passed a motion that reciprocity be addressed in the proposed regulations.

The Advisory Board had passed a motion to request the Conference of Radiation Control Program Director's (CRCPD) to conduct a review of the Virginia radiation control program.

Copies of the draft ***Radiation Protection Regulations*** and the ***Radiation Protection Regulations: Fee Schedule*** were provided to the Radiation Advisory Board in CD-ROM format, and paper copy for those members requesting a hard copy. Advisory Board members were invited to provide comments within the next six months.

In order to promulgate regulations the agency must submit an application for approval to issue a Notice of Intended Regulatory Action (NOIRA). The pre-NOIRA was submitted to the Adjudication Office, which is in turn submitted the application to the State Health Commissioner, then to the Department of Planning and Budget, which has 14 days to respond, and then to the Secretary of Health and Human Services. Once the Secretary grants approval, the formal Administrative Process Act (APA) begins. The first step is to publish the NOIRA in the Virginia Register, which initiates an informal comment period. Then in the next step, the Board of Health approves the draft regulations and then a formal public comment period is published, and finally the Board of Health meets to approve the regulations as final with an effective date. The APA process takes typically 16 months to accomplish.

Status of Program Review by CRCPD-Leslie Foldesi, M.S., CHP, Director of Radiological Health

The Board of Directors for the Conference of Radiation Control Program Directors, agreed to conduct a review of the VDH's radiation control program. The team will consist of Mel Fry, Program Director in North Carolina (team leader), John McCrohan, FDA- Division Director of Mammography; FDA- Lynn Jenkins, Regional Representative; Bill Belanger, EPA Region III Health Physicist; Cordelia Maupin, NRC Headquarters; and Terry Devine, CRCPD. The review team will conduct the review during the third week in August. A written report will be provided three or four months after the review.

#### **IV. Old Business**

Dr. Wasti presented two items. First the agency is provided an opportunity to submit budget initiatives for the next biennial budget. The Agency intends to submit a proposal to initiate NRC Agreement State status. Secondly, the Advisory Board members are provided a draft of proposed fees for X-ray machine fees and radioactive materials licensing fees. Advisory Board members are invited to comment on these fees. The fee schedule will be considered after the budget is submitted.

Ed Johnson presented a resolution and seconded by Dr. Anthony that the Board adopt regarding the NRC Agreement State issue. The Board approved the following resolution:

**RESOLVED**, that the Radiation Advisory Board shall submit a letter of recommendation to the Governor via the Commissioner of Health that state the following:

**WHEREAS**, as of January 19, 2001 a total of 32 States have become Agreement States under the regulations of the U.S. Nuclear Regulatory Commission (NRC), and 3 additional states have an active interest in negotiating such agreements-- leaving a total of only 15 states that have yet become Agreement States.

**WHEREAS**, the NRC is required by the Omnibus Budget Reconciliation Act of 1990 to recover about 98% of the costs it incurs in regulating its licensees -- and is now charging professional rates ranging from \$144 to \$150/ hour for such licensing work.

**WHEREAS**, as the number of Agreement States increase, the allocation of NRC fixed costs to non-Agreement States can be expected to increase.

**WHEREAS**, NRC collects about \$1.1- million/year in license fees from licensees in Virginia that would otherwise be collected by the Commonwealth if it was an Agreement State.

**WHEREAS**, based on studies performed by members of the Radiation Advisory Board, the Board is confident that the startup costs involved in Virginia becoming an Agreement State could easily be recovered within five years or less thereafter, while at the same time licensees in the commonwealth could benefit from lower fees.

**WHEREAS**, the Board of Health has voted to support Virginia becoming an Agreement State, and all required statutory authority to support Virginia becoming an Agreement State, and al required statutory authority has been promulgated by the Legislature.

**NOW THEREFORE**, the Board recommends that the Governor take all necessary steps to establish Virginia as an Agreement State as soon as reasonably feasible.

Motion by Dr. Anthony, seconded by Ed Johnson, and approved that:  
Recommends Virginia seek through the Conference of Radiation Control Program Directors, a nation wide reciprocity agreement with other States in which radioactive material licensing and credentialing of Private Inspectors (Qualified Experts) is recognized on a uniform basis, including fees for reciprocity.

## **V. New Business**

Fluoroscopy- Mary Ann Turner, M.D.

Dr. Turner expressed concern regarding the lack qualifications by operators of fluoroscopy equipment at certain facilities. There was an impression that the Board of Medicine was condoning the use of untrained operators based on a conversation with a medical physicist. Les Foldesi had inquired of the Board of Medicine's position on the issue and was advised that the Board of Medicine was currently investigating a facility that is alleged to be using untrained individuals. The Board of Medicine has an active licensure program for X-ray machine operators in a non-hospital environment.

Dr. Clarke also expressed concern regarding mobile X-ray services using unlicensed or unregistered Technologists, such as Navy Technologists. Facilities, such as nursing homes using these services are at greatest risk.

Les Foldesi mentioned the FDA's concern for radiation injuries to patients during fluoroscopic interventional procedures. Dr. Turner indicated that cardiac specialists performing angiography during heart cauterizations are included in this category of fluoroscopic use, and in most cases these specialists have very little radiation protection training. Dr. Turner agreed to draft a document for physicians which briefly describes the radiation safety concern during fluoroscopic interventional procedures. Dr. Turner indicated that she would solicit the assistance of Dr. Fatouros with the development of the document. The document will go to the Board of Medicine for distribution to physicians, and VDH's Epi Bulletin.

There was also discussion regarding wellness screening programs that accept self-referrals for CT scans and MRI. Ultrasound has also been used in other states for non-medical purposes such as recording views of the fetus in expectant mothers for entertainment.

## **VI. Adjournment**

Meeting was adjourned at 11:30 a.m.